

MEREDITH, C.J.]

[March 19.

CAMERON v. ELLIOTT.

Venue—Change of—County Court action—Rule 1260—Second application—Appeal—Law Courts Act, 1895, s. 9 (2).

Where in a County Court action an application has been made to the Master in Chambers, under Rule 1260, to change the place of trial, no appeal lies from his order; and a second application for the same purpose not based upon any new state of facts arising since the first application was made, will not be entertained by a Judge in Chambers.

McAllister v. Cole, 16 P.R. 105, followed.

Milligan v. Sills, 13 P.R. 350, not followed, with the concurrence of the Judges who decided it, pursuant to s. 9 (2) of the Law Courts Act, 1895.

W. E. Middleton, for the plaintiff.

Mr. Beatty (*W. J. Elliott*), for the defendant.

ROSE, J.,
In Chambers. }

[March 30.

REG. EX REL. WATTERWORTH v. BUCHANAN AND CUTHBERT.

Municipal elections—Deputy returning officer—Absence during part of polling-day—Irregularity—Saving clause—Consolidated Municipal Act, 1892, s. 175.

At an election of county councillors one of the deputy returning officers for a town in the county was absent from his booth on three separate occasions during polling-day. There was no suggestion of bad faith. The first and second absences were on account of illness; on the third occasion he went out to dinner and voted in another place. The first absence was for about ten minutes, during which the booth was locked up, with the poll-clerk and constable inside, in charge. The deputy swore that no voter came in till he returned. In his second and third absences the town clerk took his place. During the second no votes were cast, but during the third there were several. The town clerk placed the deputy's initials on the back of the ballots given to such voters, and the consequence was that these ballots were upon a judicial investigation identified and separated, and it appeared that during the third absence nine votes were cast for the relator and nine for the respondent. Upon the whole the respondent had two more votes than the relator, and by s. 13 of the County Councils Act, 1896, there being two county councillors to be elected, a voter could give both his votes to one candidate.

Held, that the absences and what was done during the absences did not affect the result of the election, and applying the saving provisions of s. 175 of the Consolidated Municipal Act, 1892, that it should not be declared invalid.

W. T. McMullen, for the relator.

Aylesworth, Q.C., for the respondent, Buchanan.